

Testimony of Russ Ritter
SB 122 Montana SAFE Act
Before Senate Business and Labor Committee

Good morning Chairman Balyeat and members of the Committee, I am Russ Ritter. I testify today as a member of the Montana Bank Board. I have served as a member of this Board since August 14, 2006. The Montana Bank Board supports the passage of SB 122 and urges a do pass vote with the amendments offered by the Division.

Generally I am a firm believer in the free market system, but in light of the subprime meltdown and the resulting disruption of our financial markets, I think I state the obvious when I say the mortgage lending and mortgage brokering industries in this country are seriously in need of regulation.

Some relevant background, from 2003 to 2006, subprime lending grew from about 9 percent to 24 percent of all loans originated. Subprime loans are made to borrowers who do not qualify for prime rate, generally because their credit scores are too low. Subprime loans generally have higher interest rates than prime loans. Alt-A loans are mortgages where the risk profile falls between prime and subprime. The borrowers behind these mortgages will typically have clean credit histories, but the mortgage itself will generally have some issues that increase its risk profile. These issues include higher loan-to-value and debt-to-income ratios or inadequate documentation of the borrower's income. Alt-A lending grew from about 2 percent in 2003 to 16 percent in 2006. (Source: the trade publication *Inside Mortgage Finance*, cited in the GAO Report to Congressional Addressees, "Financial Regulation, A Framework for Crafting and Assessing Proposals to Modernize the Outdated U.S. Financial Regulatory System", January 2009, p. 24)

In 2006, 21 of the top 25 originators of subprime and other nonprime loans were nonbank lenders. These nonbank lenders accounted for 90 percent of the dollar volume of all subprime and nonprime loans originated.

(Source: the GAO Report to Congressional Addressees, "Financial Regulation, A Framework for Crafting and Assessing Proposals to Modernize the Outdated U.S. Financial Regulatory System", January 2009, p.23 and 24)

In 2005, mortgage brokers accounted for about 60 percent of originations in the subprime market compared with about 25 percent in the prime market. (Source: the GAO Report to Congressional Addressees, "Financial Regulation, A Framework for Crafting and Assessing Proposals to Modernize the Outdated U.S. Financial Regulatory System", January 2009, p.26 and 27)

In 2008, in the wake of the subprime crisis, Congress enacted the Secure and Fair Enforcement for Mortgage Licensing Act, as part of the Housing and Economic Recovery Act. The purpose of the S.A.F.E. Act is to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud. The S.A.F.E. Act has ten key objectives:

1. Provide uniform license applications and reporting requirements for state-licensed loan originators;
2. Provide a comprehensive licensing and supervisory database;
3. Aggregate and improve the flow of information to and among regulators;
4. Provide increased accountability and tracking of loan originators;
5. Streamline the licensing process and reduce regulatory burden;
6. Enhance consumer protections and support anti-fraud measures;
7. Provide consumers with easily accessible information utilizing electronic media regarding employment history and publicly adjudicated disciplinary and enforcement actions against loan originators;
8. Establish a means by which residential mortgage loan originators would, to the greatest extent possible, be required to act in the best interests of the consumer;

9. Facilitate responsible behavior in the subprime mortgage marketplace and provide comprehensive training and examination requirements related to subprime mortgage lending; and
10. Facilitate the collection and disbursement of consumer complaints on behalf of state and federal mortgage regulators.

The requirements of the SAFE Act demand immediate and broad action by states. States have the opportunity to preserve their ability to regulate their own mortgage lending markets but only if they act swiftly and effectively to implement the requirements of the SAFE Act. If a state does not enact and implement legislation that meets the requirements of the SAFE Act by July, 2009, the federal government will step in to set up a system to regulate mortgage loan originators in that state. But more importantly, I fear that state's ability to supervise all financial services will be called into question.

It is imperative that SB 122 be passed in total, as amended by the Division. SB 122 incorporates the model act developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. On January 5, 2009, the Department of Housing and Urban Development issued a notice the federal register stating that HUD has reviewed this model legislation and finds that it meets the minimum requirements of the SAFE Mortgage Licensing Act.

This specific language has been blessed by HUD. Any meaningful deviation from it will place Montana at risk of not meeting the requirements of the SAFE Act. That in turn will mean that HUD will set up a system to license and regulate mortgage loan originators in Montana. Initially mortgage loan originators will be regulated by both HUD and state. But in the long run, the federal government will step in and will take over the regulation of mortgage loan originators in Montana.

We must not allow HUD to usurp the regulation of mortgage loan originators, mortgage brokers and mortgage lenders in Montana. I urge you to pass SB 122 with the amendments as proposed by the division.

Thank you.

A handwritten signature in cursive script, reading "Russell J. Rutter". The signature is written in dark ink and is positioned below the "Thank you." text.